

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF OKLAHOMA

In RE:

KIM OLBERT
JEFFREY OLBERT
Debtors.

Case No. 13-15545
Chapter 13

**OBJECTION TO CLAIM #3-1; RCB BANK, APPLICATION FOR ATTORNEY
COMPENSATION AND NOTICE OF OPPORTUNITY OF HEARING**

COMES NOW KIM & JEFFREY OLBERT, the above named debtors, by and through their attorney, PHILIP A. HURTT, and files this Objection to Claim #3-1; RCB BANK, filed on January 29, 2014. The debtor has examined the claim of creditor, RCB BANK, in the amount of \$4,728.06 and object to the allowance of the claim for the following reason:

1. The Debtors were in a previous Chapter 13 (11-13981) in which the first claim (5-1) filed on October 13, 2011 by RCB Bank was for \$18,411.75 on three vehicles (2005 BMW X5, 2004 Acura MDX and a 2002 Acura MDX), right after the filing of that bankruptcy the debtors were involved in a vehicle accident that totaled the BMW. Liberty Mutual paid RCB Bank \$13,201.34. The amended proof of claim (6-1) filed on November 23, 2011 in that case reflected a new total of \$6,164.05 owed.
2. The Chapter 13 Trustee paid \$5,131.95 in principal and \$619.05 in interest for a total of \$5,751.00.
3. The Proof of claim (3-1) filed in Case 13-15545, RCB BANK admits to receiving a total of \$18,952.34 between insurance proceeds and Chapter 13 payments, which is \$540.59 more than they should have received based upon the original proof of claim

of \$18,411.75 filed. Therefore, the debt paid to RCB BANK was paid in full prior to the previous Chapter 13 case being dismissed. (Debtors will be filing a amendment removing RCB Bank as a creditor once this has been resolved.)

4. That the debtors are due a refund of \$540.59 from RCB BANK and a lien release on the 2004 ACURA MDX for the loan overpayment.
5. That Counsel for the Debtor be awarded \$500.00 for the Objection to the Proof of Claim filed by RCB BANK to be paid by RCB BANK.

WHEREFORE, Debtor prays that this Court deny RCB BANK's claim of \$4,728.06 in its entirety, RCB BANK be ordered to refund the debtors \$540.59 for the loan overpayment, and that Debtors' Counsel, Philip A. Hurtt, be awarded \$500.00 in attorney compensation for the filing of this objection to be paid by RCB BANK.

NOTICE OF OPPORTUNITY FOR HEARING

Your rights may be affected. You should read this document carefully and consult your attorney about your rights and the effect of this document. If you do not want the Court to grant the requested relief, or you wish to have your views considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, OK 73102 no later than 21 days from the date of filing of this request for relief. You should also serve a file stamped copy of your

response or objection to the undersigned movant/movant's attorney [and others who are required to be served] and file a certificate of service with the Court. If no response or objection is timely filed, the Court may grant the requested relief without a hearing or further notice.

The 24 day period includes the three (3) days allowed for mailing provided for in Bankruptcy Rule 9006(f).

NOTICE OF HEARING

A hearing has been set on April 8, 2014 at 9:45 am in front of the Honorable Judge Niles L. Jackson.

Respectfully submitted by:

/s/Philip A. Hurtt
PHILIP A. HURTT, OBA 16244
Branch & Hurtt Law Firm P.C.
1525 SW 89th Street
Oklahoma City, OK 73159
(405) 634-7600 Telephone
(405) 634-9306 Facsimile
Attorney for the Debtors

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of February, 2014, a true and correct copy of the Objection to Proof of Claim 3-1; RCB BANK was electronically served using the CM/ECF system, namely:

Scott P. Kirtley, John T. Hardeman, Chapter 13 Trustee and the U.S. Trustee.

I further certify that on the 24th day of February, 2014 a true and correct copy of the above and foregoing Objection to Proof of Claim 3-1; RCB BANK was mailed by First class mail, postage prepaid to:

RCB Bank
C/O Jared C. Smith
PO Box 189
Claremore, OK 74018-0189

/s/Philip A. Hurtt
Philip A. Hurtt